

## CHAPTER 6

### BUILDING REGULATIONS

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(Ord. Dated 8-9-76; Ord. No. 016-80, 9-9-80; Ord No. 004-90, 2-13-90; Ord. No. 023-92, 12-8-92; Ord. No. 040-95, 9-12-95; Ord. No.039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05;Ord. No. 029-2005, 9-13-05)

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**Editor's note**--Ord. No. 016-80, adopted Sept. 9, 1980, repealed and re-enacted Code 1959, Ch. 5. At the discretion of the editor, said ordinance had been codified as amending Ch. 5, Arts. I-IV of the amended Code 1959, with the exception of 5-1 and 5-17, which sections did not derive from the former Ch. 5. In order to facilitate reference, the section numbers assigned in Ord. No. 016-80 have been included in the history note following the amended provisions.

Prior to amendment by Ord. No. 016-80, Arts. I-IV derived from an ordinance of Aug. 9, 1976, 5-1 - 5-14, 5-16 - 5-33, 5-36 - 5-54, an ordinance of April 11, 1978, and an ordinance of March 13, 1979.

Art. VI was not amended in 1980 and derived from an ordinance of Jan. 11, 1978. Art. VII derived from Ord. No. 021-83, June 14, 1983. Art. VIII derived from Ord. No. 011-89, March 14, 1989.

Ord. No. 008-83, 6-14-83; Ord. No. 027-83, 8-9-83; Ord. No. 006-84, 4-10-84; Ord. No. 016-87, 6-9-87; Ord. No. 023-87, 8-11-87; Ord. No. 026-87, 8-11-87; Ord. No. 025-88, 6-14-88; Ord. No. 054-88, 12-13-88; and Ord. No. 011-89, 3-14-89 incorporated amendments.  
Ord. No. 004-90, adopted February 13, 1990, repealed and re-enacted Chapter 5 in its entirety.

Ord. No. 023-92, adopted December 9, 1992, and effective January 1, 1993, repealed and re-enacted Chapter 5 in its entirety. In order to facilitate reference, the section numbers assigned in Ord. No. 004-90 have been included in the history note following the amended provisions.

Ord. No. 040-95 adopted September 12, 1995, repealed and re-enacted Chapter 5 (now Chapter 6) in its entirety as a part of the 1995 City Code Recodification.

Cross references - Air pollution control, Ch. 3; erosion and sedimentation control, Ch. 9; fire prevention and protection, Ch. 10; waste resulting from building operations not to be collected by city, 11-23;

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planning, Ch. 19; streets and sidewalks, Ch. 26; street numbers for buildings, 26-3; establishing building lines, 26-4; water, wastewater, Ch. 29; protection of trees during building operation, 30-23.

### **ARTICLE I. IN GENERAL**

#### **SECTION 6-1. BUILDING OFFICIAL. GENERALLY.**

- (a) Office established. There is hereby established in the City the office of the building official, who shall be appointed by the city manager. The building official shall be qualified and certified as required by the Virginia Uniform Statewide Building Code.
- (b) Duties. The building official shall issue permits, enforce all regulations which may be adopted by the common council and the Commonwealth of Virginia for the control of building construction, and keep permanent records of his work. (Ord. Dated 8-9-76, 5-3, 5-4; Ord. No. 016-80, 5-3, 5-4, 9-9-80; Ord. No. 004-90, 5-1, 2-13-90; Ord. No. 023-92, 5-1, 12-8-92)

**Building Code Reference**--USBC Section 102.2.2.

#### **SECTION 6-2. INSPECTION OF CERTAIN STRUCTURES.**

Notwithstanding any other provision of law, the building official, his designee and any other official of the City responsible for the safety of buildings may inspect any of the buildings or structures listed herein, whether permanent or temporary, including buildings or structures owned by the Commonwealth or its political subdivisions, and the equipment therein periodically to insure compliance with the Virginia Uniform Statewide Building Code:

- (a) Buildings or structures used to store hazardous materials;
- (b) Buildings or structures to be used or occupied by twenty (20) or more persons who are employed, lodged, housed, assembled, served, entertained or instructed therein; and
- (c) The common areas of residential structures containing four (4) or more units.

(Ord. No. 004-88, 5-2.1, 11-15-88; Ord. No. 004-90, 5-2, 2-13-90; Ord. No. 023-92, 5-2, 12-8-92)

**State Law Reference**--Code of Virginia, §36-105.

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### **SECTION 6-3. BOARD OF BUILDING CODE APPEALS; CONTINUATION OF EXISTENCE; POWERS AND DUTIES.**

There is established pursuant to the Virginia Uniform Statewide Building Code a Building Code Board of Appeals. It shall have such powers and duties as set forth in the Virginia Uniform Statewide Building Code, Volumes I and II, as amended. The Board shall have the power to establish time and places for meetings, and to establish procedures and forms necessary or convenient to the execution of its duties. (Ord. No. 023-87, 5-4, 8-11-87; Ord. No. 004-90, 5-4, 2-13-90; Ord. No. 023-92, 5-4, 12-8-92)

**State Law Reference**--Code of Virginia, §36-105.

### **SECTION 6-4. MEMBERSHIP. COMPENSATION; TERM.**

- (a) The Board of Building Code Appeals shall consist of five (5) members and three (3) alternate members. At least one member shall be a builder with at least ten (10) years experience in building, and at least one other member shall be a licensed professional engineer or surveyor. All appointments shall be made by the Common Council.
- (b) The members shall serve without compensation. No employee or official of the City may serve as a Board member.
- (c) The terms of existing Board members shall continue in effect throughout said member's terms. Thereafter, the terms shall be for five (5) years for members and one (1) year for alternate members. The members may be reappointed. Members may be removed without cause by the Common Council. Vacancies shall be filled for the unexpired term. (Ord. No. 023-87, 5-5, 8-11-87; Ord. No. 004-90, 5-5, 2-13-90; Ord. No. 023-92, 5-5, 12-8-92)

### **SECTION 6-5. MEETINGS.**

The Board may hold regular meetings, and shall meet when an appeal is filed under the provisions of the Virginia Uniform Statewide Building Code. (Ord. No. 023-87, 5-6, 8-11-87; Ord. No. 004-90, 5-6, 2-13-90; Ord. No. 023-92, 5-6, 12-8-92)

**Building Code Reference**--USBC Section 116.0.

### **SECTION 6-6. TECHNICAL ASSISTANTS.**

The City may employ personnel to assist the building official in the duties of the building department and in the inspection of building, plumbing, gas fitting, mechanical and electrical trades, known as technical assistants. These positions shall be appointed by the city manager. The technical assistants shall make inspections, reports, and record keeping as directed by the building official. Technical assistants shall be qualified and certified as

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required by the Virginia Uniform Statewide Building Code within one year of appointment. (Ord. No. 023-92, 5-46, 5-98, 5-126, 12-8-92)

**Building Code Reference**--USBC Sections 102.3, 102.3.1, and 103.3.

### **SECTION 6-7. CRIMINAL PENALTIES FOR VIOLATIONS OF VIRGINIA UNIFORM STATEWIDE BUILDING CODE, VOLUME I**

It shall be unlawful for any "owner", as defined by Section 36-97 of the Code of Virginia, 1950, as amended, or any other person, firm or corporation to violate any provisions of the Virginia Uniform Statewide Building Code, Volume I, as amended. Any violation of such provisions shall be deemed a misdemeanor, and any "owner", as defined by said Section 36-97 of the said Code of Virginia, or any other person, firm or corporation who is convicted of such violation, shall be punished by a fine of not more than \$2,500. If the violation remains uncorrected at the time of conviction, the court shall order such violator to abate or remedy the violation in order to comply with said Chapter. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six (6) months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. Any person convicted of a second offense committed within less than five (5) years after a first offense under this chapter shall be punished by a fine of not less than \$1,000 or more than \$2,500. Any person convicted of a second offense committed within a period of five (5) to ten (10) years of a first offense under this chapter shall be punished by a fine of not less than \$500 or more than \$2,500. Any person convicted of a third or subsequent offense committed within ten (10) years of an offense under this chapter shall be punished by confinement in jail for not more than ten (10) days and a fine of not more than \$2,500, either or both.

### **SECTION 6-8. VIOLATIONS OF VIRGINIA UNIFORM STATEWIDE BUILDING CODE, PROPERTY MAINTENANCE CODE; CIVIL PENALTIES.**

(a) In lieu of criminal penalties otherwise chargeable under the Virginia Uniform Statewide Building Code, Property Maintenance Code, except for any violation resulting in injury to any person or persons, the following civil penalties shall be imposed upon any person who violates the provisions thereof after compliance with the initial notice has not been achieved:

Failure to obtain any required inspection:

First summons, per day	\$100.00
Second or subsequent summonses, per day	\$150.00

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Violation of any other provision of Property Maintenance Code of the Virginia Uniform Statewide Building Code:

First summons, per day:	\$ 75.00
Second or subsequent summonses, per day	\$150.00

Failure to display or maintain street numbers:

First summons	\$ 25.00
Second or subsequent summonses, per summons	\$ 50.00

(b) With the exception of the street numbering provisions of Section 26-3, each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any ten (10) day period, and shall not result in civil penalties exceeding a total of three thousand dollars (\$3,000.00).

(Ord. No. 021-2005, 6-14-05)

### **SECTION 6-9. VACANT BUILDING REGISTRATION; PENALTY**

(a) The owner of a building which has been continuously vacant for a period of twelve (12) months or more must register the building annually with the Building Official. Such registration shall be on a form prescribed by the Building Official.

(b) The annual fee for such registration shall be Twenty-Five Dollars (\$25.00). The fee shall be paid at the time that the building is initially registered. For each subsequent year, or any part of such year, that the building remains continuously vacant, an annual and non-refundable fee of Twenty-Five Dollars (\$25.00) shall be paid within fifteen (15) days of the anniversary date of the building's initial registration.

(c) Failure to register a vacant building as required by this section shall be punishable by a civil penalty not exceeding Fifty Dollars (\$50.00). Failure to register in conservation and rehabilitation districts designated by the Common Council for the City of Winchester, or other areas designated as blighted pursuant to section 36-49.1:1 of the Code of Virginia, 1950, as amended, shall be punishable by a civil penalty not exceeding Two Hundred Fifty Dollars (\$250.00).

(d) The Building Official, or his or her designee, shall mail a Notice of violation to the owner(s) of the vacant building, at the address to which property tax notices are sent, at least thirty (30) days prior to the assessment of the civil penalty.

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(Ord. No. 028-2005, 9-13-05)

**State Law Reference**—Code of Virginia, §15.2-1127.

### **SECTIONS 6-10 - 6-15. RESERVED.**

(Ord. No. 004-90, 2-13-90; Ord. No. 023-92, 12-8-92)

## **ARTICLE II. UNIFORM STATEWIDE BUILDING CODE VOLUME ONE, NEW CONSTRUCTION CODE**

### **DIVISION 1. GENERALLY.**

#### **SECTION 6-16. AVAILABILITY OF COPIES.**

Copies of the current edition of the Virginia Uniform Statewide Building Code, Volume I, New Construction Code, as adopted in conformity with Chapter 6 of Title 36 of the Code of Virginia, and amendments thereto are on file in the office of the Building Official, Rouss City Hall, where they are available for public examination on Monday through Friday from 8:00 A.M. to 5:00 P.M., holidays excepted. (Ord. Dated 8-9-76, 5-2; Ord. No. 016-80, 5-2, 9-8-80; Ord. No. 011-89, 5-16, 3-13-89; Ord. No. 004-90, 5-16, 2-13-90; Ord. No. 023-92, 5-16, 12-8-92; Ord. No. 040-95, 9-12-95)

#### **SECTION 6-17. PREREQUISITES TO ISSUANCE OF BUILDING PERMITS ON EXISTING STREETS.**

No building permit required by the Virginia Uniform Statewide Building Code will be issued on an existing street unless: (i) the applicant has entered into a street improvement contract with the City providing for the payment of the applicant's share of the cost of the street improvements; and, (ii) unless water and sewer service is available as defined herein, or unless the applicant has executed an agreement for water and sewer extensions and an agreement to hold harmless and indemnify the City for any loss occasioned by the lack of available water and sewer.

As used in this section, water service is available when it is operational in such form so as to allow the City fire department to respond to a fire in the structure for which the building permit is applied, at the applicant's property line or within 300 feet of said structure. Sewer service is available when it is operational at the applicant's property line. (Code 1959, 22-12; Ord. No. 025-88, 5-17, 6-14-88; Ord. No. 004-90, 5-17, 2-13-90; Ord. No. 023-92, 5-17, 12-8-92.)

**Cross references**--Public improvements paid for by local assessment, 2-11; streets and sidewalks, Ch. 26; water and sewers, Ch. 29.

**State Law Reference**--Code of Virginia, §36-97, *et seq.*

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### **SECTION 6-18. PREREQUISITE FOR FOOTING INSPECTION.**

Whenever any proposed setback or yard is less than the required setback or yard plus two (2) feet, the owner or developer shall provide, at the time of footing inspection, survey markers locating the required setback or yard, which have been set and certified by a land surveyor licensed under the laws of the Commonwealth of Virginia. Survey markers may be offset up to but not exceeding four (4) feet. The amount of offset shall be clearly indicated on the survey marker. The markers shall remain in place and undisturbed until the completion of the foundation wall. (Ord. No. 011-89, 5-18, 3-14-89; Ord. No. 004-90, 5-18, 2-13-90)

### **SECTION 6-19. PREREQUISITES TO ISSUANCE OF CERTIFICATES OF USE AND OCCUPANCY.**

No Certificates of Use and Occupancy will be issued until the following conditions have been met:

- (1) The building is in compliance with the Virginia Uniform Statewide Building Code, applicable edition and amendments.
- (2) All required public improvements serving the subdivision or property not part of a subdivision are complete, operational and accepted into the City system. Such public improvements include, but are not limited to, streets, storm drainage systems, water and sewer service.
- (3) All required site plan improvements are complete and operational or the completion is covered by bond as provided by the Zoning Ordinance of the City of Winchester, Virginia.
- (4) An as-built site plan prepared and signed by a surveyor licensed under the laws of the Commonwealth of Virginia has been filed. This requirement shall apply only to structures proposed to be located within two (2) feet of any applicable yard or setback required by Zoning Ordinance. This requirement shall not apply to structures accessory to single-family residential structures. Said site plan shall not be smaller in scale than 1 inch to 50 feet drawn in accordance with an accurate boundary survey and shall show:
  - The location of all structures including porches, decks and stoops
  - Perimeter dimensions of structures, including habitable or encroaching overhangs
  - The nearest perpendicular distance from lot lines with at least one side tied at two or more corners
  - Utility and access easements
  - Paved areas
  - Improvements required by the Winchester Zoning Ordinance

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- (5) Any required zoning variances or special exceptions have been obtained or applied for in accordance with the City of Winchester Zoning Ordinance. (Ord. No. 011-89, 5-19, 3-14-89; Ord. No. 004-90, 5-19, 2-13-90; Ord. No. 023-92, 5-19, 12-08-92)

### **SECTION 6-20. REPEALED.**

(Ord. No. 021-2005, 6-14-05)

### **SECTION 6-21 - 6-24. RESERVED.**

(Ord. No. 004-90, 2-13-90; Ord. No. 023-92, 12-08-92)

## **DIVISION 2. BUILDING PERMIT FEES**

### **SECTION 6-25. EXEMPTION FROM FEE.**

No fees shall be required under this division for work performed directly for the City through its own employees, agents or contractors. (Ord. No. 027-83, 5-25, 8-9-83; Ord. No. 004-90, 5-25, 2-13-90; Ord. No. 023-92, 5-25, 12-8-92; Ord. No. 040-95, 9-12-95)

### **SECTION 6-26. REPEALED.**

(Ord. No. 017-97, 07-8-97)



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### SECTION 6-27. PRESCRIBED. GENERALLY.

A permit for the construction or alteration of a building, structure, sign, plumbing, gas or mechanical work shall be charged a fee according to the following schedule. Fees shown are based on a per square foot basis unless otherwise indicated. In addition to these fees, an additional 1.75% shall be charged to support the Virginia Building Code Academy and other training programs in accordance to the Virginia Uniform Statewide Building Code.

#### New Construction and additions:

Residential and institutional construction (Churches, schools, etc.).	
Finished floor area .....	\$ 00.16
Unfinished floor area .....	\$ 00.12
Minimum fee .....	\$ 40.00
Commercial and industrial	
Finished floor area .....	\$ 00.24
Minimum fee.....	\$ 60.00
Industrialized buildings or shells, including slab and foundation (warehouse, etc.) .....	
	\$ 00.20
Remodeling and/or finishing of shell space.	
Residential .....	\$ 00.14
Minimum .....	\$ 40.00
Institutional, commercial or industrial .....	\$ 00.16
Minimum .....	\$ 60.00
Garage or carport .....	\$ 00.14
Accessory building or structure .....	\$ 00.14
Prefabricated homes with third party inspection seal (each) (plus foundation permit) .....	\$120.00

#### Replacement, special items, and services:

Deck or porch (each) .....	\$ 50.00
Demolition (each) .....	\$ 80.00
Plus bond .....	\$ 500.00
(Note: An irrevocable letter of credit from a financial institution in the amount of \$500.00 may be placed on file with the city treasurer in place of a bond.)	
Asbestos removal permit.....	\$ 60.00
Automotive lifts (per unit) .....	\$ 40.00
Dumbwaiters (each) .....	\$ 40.00
Elevators (each) .....	\$100.00
Escalators (each - per floor).....	\$ 40.00
Fence (over 6 feet - per 50 linear feet).....	\$ 40.00
Retaining wall (per 50 feet) .....	\$ 40.00
Fireplace, chimney, or wood stove (each) .....	\$ 40.00
Foundation only (each) .....	\$ 80.00
Moving building (plus foundation permit) .....	\$100.00
Radio towers and like structures (each) .....	\$ 40.00
Re-roofing (per job location):	
Residential .....	\$ 50.00
Non-residential.....	\$100.00
Re-siding (per job location) .....	\$ 50.00

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Sign permit (per sign) .....	\$ 40.00
Swimming pool (each)	
Residential .....	\$ 60.00
Non-residential .....	\$100.00
Storage tanks (under or above ground - each)	
Removal .....	\$ 50.00
Installation .....	\$ 80.00
Temporary structures .....	\$ 60.00
Tents on residential property .....	\$ 40.00
Tents on non-residential property .....	\$ 60.00
Bleachers and grandstands (per site) .....	\$ 40.00
Safety glass replacement .....	\$ 30.00

### Services:

Temporary certificate of occupancy	
Residential (per unit) .....	\$ 60.00
All other .....	\$150.00
Renewal (all TCO's).....	\$100.00
Permit renewal .....	\$ 50.00
Refunds - All permits -	
Permits less than \$20.00 and minimum and base fees.....	No Refund
No work started.....	75% of the fee above the minimum or base fee.
Work started.....	Based on percentage of work complete.
Not to exceed 50% of permit fee. Base fee is non-refundable.	
Annual permit (where approved) .....	\$200.00
Re-inspection (failure to be ready or second rejection).....	\$ 50.00
Pre-application plan preview	
Residential one and two family .....	\$ 60.00
Residential (three units) .....	\$100.00
Additional per unit .....	\$ 20.00
Non-residential.....	\$200.00
 New plans on previously approved project requiring a new plan review (per s.f.) .....	 \$ 00.04
 Change of use inspection	
Residential .....	\$ 40.00
Commercial, industrial .....	\$100.00
Occupancy inspection	
One and two family residential .....	\$ 40.00
Other residential (per unit) .....	\$ 60.00
Non residential .....	\$100.00

For work not specifically listed above or unable to be evaluated, the fee shall be 6.00 per \$1,000 or fraction thereof, of estimated cost, which includes materials and labor.

### Plumbing Work:

Base permit fee:	
Residential (per unit) .....	\$ 30.00
Non-residential (per unit or floor) .....	\$ 40.00
Water service inspection .....	\$ 16.00

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Sewer service inspection .....\$ 16.00

Per fixture (includes floor drain, hose connections, and  
outlets) .....\$ 7.00  
Re-inspection (failure to be ready or second rejection).....\$ 50.00  
Prefabricated homes with third party inspection seals .....\$ 40.00  
Cross connection device (each) .....\$ 10.00  
Maximum .....\$200.00  
Irrigation sprinkler system (base) .....\$ 40.00  
Additional per head .....\$ 3.00

### Mechanical Work:

Base permit fee:  
Residential (per unit) .....\$ 20.00  
Non-residential (per unit or floor) .....\$ 30.00  
Heat pumps and Air Conditioning (per unit) .....\$ 30.00  
Each additional ton over 5 .....\$ 10.00  
Maximum per unit .....\$240.00  
Furnace or boiler to 100,000 BTU (per unit).....\$ 30.00  
Each additional 100,000 BTU's .....\$ 10.00  
Maximum.....\$240.00  
Fire dampers (each) .....\$ 5.00  
Crematorium and incinerators (each) .....\$ 80.00  
Commercial range hoods (each) .....\$ 50.00  
Refrigeration systems (per unit) .....\$ 50.00  
Each additional ton over 5 .....\$ 10.00  
Oil burners conversion or replacements .....\$ 60.00  
Re-inspection (failure to be ready or second rejection).....\$ 50.00  
Other mechanical work not specified .....\$6.00 per \$1000 or  
fraction there of, of estimated cost, \$40.00 minimum

### LP Gas Work:

Base permit fee:  
Residential (per dwelling unit) .....\$ 20.00  
Non-residential.....\$ 30.00  
Per appliance or outlet .....\$ 7.00  
Re-inspection (failure to be ready or second rejection).....\$ 50.00

### Natural Gas Work:

Note: The Shenandoah Gas Company provides funding for inspection of all natural gas work performed in the City. Permits are required, but there are no fees charged to the customer.

### Fire Protection:

Automatic Sprinklers:  
Residential (13D).....\$ 50.00  
Limited Area (per 20 heads) .....\$ 50.00

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Commercial (NFPA systems) (base fee) .....	\$ 60.00
Additional per head.....	\$ 1.00
Fire pumps (per pump) .....	\$ 80.00
Standpipe systems (per riser).....	\$ 80.00
Underground fire line (per line) .....	\$ 60.00
Water fixed spray, Foam, Carbon Dioxide, Halogenated, Dry chemical, Wet chemical systems (base fee).....	\$ 60.00
Additional per head/outlet .....	\$ 2.00
Fire alarm systems (base fee).....	\$ 60.00
Additional per device.....	\$ 1.00
Re-inspection fees:	
Hydrostatic retest (after one test) .....	\$100.00
Fire alarm systems (after two inspections)	
Base fee .....	\$ 50.00
Additional per device .....	\$ 00.50
Change from approved plans requiring new plan review	
Base fee .....	\$ 50.00
Additional per added or moved device or head .....	\$ 00.50
All other (failure to be ready or second rejection) .....	\$ 50.00

### Electrical:

\*Note: Electrical inspections are performed by a third party firm under contract with the City of Winchester. Permit fees are collected by the third party firm as agent for the building official. A fee of \$1.50 shall be paid by the third party firm to the City for each permit obtained.

### Annual Elevator Certification:

Passenger or Freight elevators (each) .....	\$ 20.00
Escalators (each) .....	\$ 20.00
Dumbwaiters (each) .....	\$ 20.00
Man Lift .....	\$ 20.00

### Amusement Devices:

Each Kiddie Ride .....	\$15.00 or \$7.50 approved 3rd party inspection
Each Major Ride .....	\$25.00 or \$12.50 approved 3rd party inspection
Each Spectacular Ride .....	\$45.00 or \$22.50 approved 3rd party inspection

(Ord. Dated 8-9-76, 5-5 - 5-13; Ord. No. 016-80, 5-5 - 5-13; Ord. No. 027-83, 5-26, 8-9-83; Ord. No. 006-84, 5-26, 4-10-84; Ord. No. 016-87, 5-26, 6-9-87; Ord. No. 026-87, 5-26, 8-11-87; Ord. No. 004-90, 5-27, 2-13-90; Ord. No. 023-92, 5-27, 5-37, 5-66, 5-76, 5-85, 5-113, 5-132, 12-8-92; Ord. No. 040-95, 9-12-95; Ord. No. 026-2002, 10-8-02; Ord. No. 032-2003, 10-14-03)

**State Law Reference**--Code of Virginia, §36-105, authority to levy fees to defray cost of enforcement of building code.

**Building Code Reference**--USBC Section 108.1-2.

**SECTIONS 6-28 - 6-35. RESERVED.**

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(Ord. No. 004-90, 2-13-90)

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### **DIVISION 3. ANNUAL ELEVATOR CERTIFICATION.**

#### **SECTION 6-36. ANNUAL ELEVATOR CERTIFICATION.**

All elevators, escalators, dumbwaiters, and man lifts shall be annually certified in accordance with the Virginia Uniform Statewide Building Code. A copy of this certification shall be received in the office of the building official by March 1 of each year. Upon receipt and acceptance of this certification, the building official shall issue a certificate of compliance to the owner/operator. This certificate shall be posted in a conspicuous place on or near the device. This certification will be the responsibility of the owner/operator of the device and inspected and tested by a third party inspection firm approved by the building official. The third party inspector shall be certified through the Virginia Department of Housing and Community Development or able to obtain the same. (Ord. No. 004-90, 5-36, 2-13-90; Ord. No. 023-92, 5-36, 12-8-92)

#### **SECTION 6-37. FEES.**

Application for the certificate of compliance shall be made on forms provided by the building official. The applicant shall pay to the city treasurer a fee in accordance with Section 6-27. (Ord. No. 004-90, 5-37, 2-13-90; Ord. No. 023-92, 5-37, 12-8-92)

#### **SECTIONS 6-38 - 6-65. RESERVED.**

(Ord. No. 004-90, 2-13-90; Ord. No. 023-92, 5-46 -5-65, 12-8-92)

### **ARTICLE III. ELECTRICITY.**

#### **DIVISION 1. PERMIT.**

#### **SECTION 6-66. APPLICATIONS; PAYMENT OF FEES.**

It shall be the duty of any person installing wire, conduits, apparatus, fixtures or other appliances for the use or transmission of electricity for light, heat, power or other purposes falling within the provisions of this chapter first to file application for an electrical permit. The authorized third party inspection service shall pay a fee as prescribed in Section 6-27. (Ord. No. 023-92, 5-96 -5-98, 12-8-92)

#### **SECTIONS 6-67 - 6-80. RESERVED.**

**(ORD. NO. 023-92, 12-8-92)**

## **BUILDING REGULATIONS**

### **ARTICLE IV. BUILDING MAINTENANCE CODE**

#### **DIVISION 1. GENERALLY.**

##### **SECTION 6-81. ADOPTED; AVAILABILITY OF COPIES.**

The Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code, 1990 edition including any later amendments made thereto over time, including later editions are hereby adopted and incorporated by reference. Copies of said Code and amendments are on file in the office of the Building Official, Rouss City Hall, where they are available for public examination on Monday through Friday, from 8:00 a.m. to 5:00 p.m., holidays excepted. (Ord. No. 023-87, 5-136, 8-11-87; Ord. No. 011-89, 5-136, 3-14-89; Ord. No. 004-90, 5-136, 2-13-90; Ord. No. 023-92, 5-136, 12-8-92; Ord. No. 040-95, 9-12-95)

##### **SECTION 6-82. CODE OFFICIALS ANNUAL REPORT.**

(a) The building official shall also be the building code official and shall make reports and keep records of the activities for the enforcement of the Property Maintenance Code. (Ord. No. 023-87, 5-137, 8-11-87; Ord. No. 004-90, 5-137, 2-13-90; Ord. No. 023-92, 5-137, 12-8-92)

##### **SECTION 6-83. REMOVAL, REPAIR, ETC., OF BUILDINGS AND OTHER STRUCTURES.**

- (1) The owners of property shall, at such time or times as the building official may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of the City of Winchester;
- (2) The City, through its own agents or employees, may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the City of Winchester, wherein the owner of such property after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure said building, wall or other structure;
- (3) In the event the City, through its own agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the City as taxes and levies are collected;
- (4) Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforced in the same manner as provided in Articles 3 and 4 of Chapter 39 of Title 58.1 of the Code of Virginia. (Ord. No. 023-92, 12-8-92)

**State Law Reference**--Code of Virginia, §15.1-11.2.

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### **SECTION 6-84. GENERAL MAINTENANCE REQUIREMENTS.**

Every dwelling unit shall be maintained in a clean and sanitary condition by the occupant. The shared or public parts of every structure shall be maintained by the owner in a clean and sanitary condition free from any accumulation of rubbish or garbage. (Ord. Dated 1-11-78, 11-9; Ord. No. 004-90, 5-140, 2-13-90; Ord. No. 023-92, 5-140, 12-8-92)

**Cross reference** -- Accumulations of garbage and refuse, 11-35, *et seq.*

### **SECTION 6-85. STORAGE AND DISPOSAL OF GARBAGE.**

Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers meeting the requirements of Chapter 11 of this Code. Every occupant of a building or part thereof shall dispose of his garbage in a clean and sanitary manner by placing it in such containers. (Ord. Dated 1-11-78, 11-10; Ord. No. 004-90, 5-141, 2-13-90; Ord. No. 023-92, 5-141, 12-8-92)

### **SECTION 6-86. SMOKE DETECTORS IN EXISTING BUILDINGS.**

Smoke detectors shall be installed in the following existing structures:

- (1) Any building containing one or more dwelling units;
- (2) Any hotel or motel;
- (3) Any rooming house;

Smoke detectors shall be battery or AC powered units installed in conformance to the Uniform Statewide Building Code. The owner shall inspect and furnish a certificate to a tenant at the beginning of each tenancy and at least annually that all detectors are present, have been inspected, and are found to be in good working order. With exception to hallways, stairwells and other common or public areas of multifamily buildings, interim testing, repair and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; however, the owner shall be obligated to service, repair or replace any malfunctioning smoke detector within five days of receipt of written notice from the tenant that such smoke detector is in need of service, repair, or replacement. (Ord. No. 023-92, 12-8-92)

**State Law Reference**--Code of Virginia, §15.1-29.9.



# **BUILDING REGULATIONS**

## **ARTICLE V. IDENTIFICATION AND INSPECTION OF RENTAL DWELLING UNITS**

### **DIVISION 1. GENERALLY**

#### **SECTION 6-87. PURPOSE AND INTENT.**

This Article is hereby amended and reenacted so as to bring it into compliance with Code of Virginia (1950), as amended, Section 36-105.1:1.

Section 36-105.1:1 of the Code of Virginia (1950), as amended, authorizes the City of Winchester to inspect residential rental dwelling units for compliance with the Building Code and to promote safe, decent and sanitary housing for its citizens; and

Further, the City Council finds that such inspections required by this Article of specific properties located within Rental Inspection Districts as set forth herein are necessary to protect the public health, safety and welfare of the occupants of dwelling units and other citizens inside the designated district(s).

Therefore, the City Council finds that a program to inspect certain rental property and issue certificates of compliance within the City of Winchester should therefore be implemented pursuant to Code of Virginia (1950), as amended, Section 36-105.1:1.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

#### **SECTION 6-88. DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

*Conditions which immediately affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit* include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of implied or expressed heating systems or equipment; items which affect the safe operation of electrical and mechanical systems; items which affect structural integrity of the building and/or the ability of the building envelope to keep out weather, or one or more other conditions that if not corrected would be reasonably expected to become conditions that affect the safe, decent and sanitary living conditions of the occupants.

*Disqualifying violation* includes those conditions which affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit, or other

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conditions that violate the provisions of the Virginia Uniform Statewide Building Code, or multiple building code violations that indicate in their totality that the dwelling unit is not being properly maintained.

*Dwelling Unit* means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household. The term dwelling unit shall not include hospitals, nursing homes, convalescent homes or similar facilities providing medical care to the aged, infirm or disabled.

*Residential Rental Dwelling Unit* means any dwelling unit leased or rented or offered for rent for occupancy. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom unless otherwise provided in the Zoning Ordinance by the Common Council of the City of Winchester.

*Multiple-Family Rental Development* means any development, consisting of ten (10) or more dwelling units under common ownership on the same parcel of land and includes all of the multifamily buildings which are a part of the multifamily development.

*Owner* means the person shown on the current real estate assessment books or current real estate assessment records.

*Responsible Party* means an Owner of a dwelling unit or any individual, group of individuals, corporation, partnership, limited liability company or other entity having the authority, single or in combination with another, to enter into agreement for the occupancy of a dwelling unit covered by this article, any or all of whom are subject to the requirements of this article.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **SECTION 6-89. RESIDENTIAL RENTAL INSPECTION DISTRICT ESTABLISHED; APPLICABILITY.**

- (a) After holding a duly advertised public hearing as required by Section 36-105.1:1(C)(1) of the Code of Virginia, the Common Council of the City of Winchester finds that within the Rental Inspection District described in subsection (b) herein below (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection district(s); (ii) the residential rental dwelling units within the designated rental inspection district are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in need of inspection by the Building Official or his or her designee to prevent deterioration, taking into account the number, age and condition of residential rental dwelling units inside the rental inspection district; and (iii) the inspection of residential dwelling units inside the

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rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspection district.

- (b) Based on the finds of the Common Council for the City of Winchester as set forth in Section 6-89(a) hereinabove, the following area(s) are included and declared to be rental inspection districts which shall be subject to all provisions of this Article:
1. The general area beginning at the Corporate Limits to North Braddock to Richards Avenue to Pennsylvania Avenue to Oates Avenue to North Loudoun to the Corporate Limits
  2. The general area beginning at the Corporate Limits to North Kent Street to East Piccadilly to East Lane to Woodstock Lane to North Pleasant Valley Road to Virginia Avenue to Van Fossen Street to Kern Street to Fairview Avenue to Hastings Street to Smithfield Avenue to the Corporate Limits.
  3. The general area beginning at South Pleasant Valley Road to East Cork Street to Purcell Street to Woodstock Lane to the Corporate Limits to Woodland Avenue to Elm Street to Orchard Avenue to National Avenue to North Pleasant Valley Road.
  4. The general area beginning at Valley Avenue to Jubal Early Drive then back to Bellview Avenue to South Loudoun Street to South Braddock Street to Lamden Avenue to Valley Avenue also including Glaize Avenue.
  5. The general area beginning at Fairmont Avenue to West Piccadilly Avenue to Washington Street to Handley Boulevard to South Braddock Street to Valley Avenue to Southwerk Avenue to Millwood Avenue to South Kent Street to East Cork Street to East Lane to East Piccadilly Street to North Cameron Street to Oates Avenue back to Commercial Street to North Loudoun to North Avenue to Fairmont Avenue.

A map showing the rental inspection districts described in Section 6-89(b) is hereby adopted as a part of this article, and shall be available for public inspection in the Department of Inspections.

- (c) The Common Council for the City of Winchester may designate additional rental inspection districts, or alter or eliminate current rental inspection districts, after notice to all property owners within the proposed district, and after a public hearing thereon. In evaluating additional areas for rental district designation, the City Council shall consider the aforementioned criteria in subsection (a) above.
- (d) The Common Council for the City of Winchester may designate an individual residential rental dwelling unit outside the rental inspection district to be subject

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to the provisions of Article V based on a separate finding for each dwelling unit that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the building code that affects the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **DIVISION 2. NOTIFICATION AND INSPECTION; CERTIFICATES OF COMPLIANCE**

#### **SECTION 6-90. NOTIFICATION.**

- (a) Upon implementation of this article, the City of Winchester Department of Inspections shall give written notice by personal delivery or first class U.S. mail to all property owners located within the rental inspection district(s) of the requirement to notify the Department of Inspections of any real property of the owner located in a rental inspection district that is a residential rental property as defined hereinabove. The mailing of said notice by the Building Official, or his or her designee, shall be deemed sufficient notice for purposes of this article.
- (b) The owner of any residential rental dwelling unit located within a rental inspection district shall notify the Department of Inspections in writing no later than sixty (60) days from receipt of the notice required in subsection (a) above, which property is a residential rental dwelling unit. Such notice and information shall be submitted on a form provided by the Department of Inspections. The form shall require the following information:
  - (1) Address of the residential rental dwelling unit.
  - (2) The name(s) of each owner of the residential rental dwelling unit and the street address(es) of the primary residence of each owner of the residential rental dwelling unit.
  - (3) The name and street address of any designated responsible party other than the owner.
- (c) Within thirty (30) days of giving the notification required under Section 6-90(b), the owner shall contact the City of Winchester Department of Inspections and arrange for an initial inspection of the residential rental dwelling unit by the Building Official or his or her designee.
- (d) The owner of any residential rental unit located in a rental inspection district shall within thirty (30) days of title transfer, notify the Department of Inspections of

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any change of ownership of the residential rental dwelling unit. Failure to provide such information shall be subject to penalties under Section 6-98(b) after notification is provided under Section 6-90(a).

- (e) Any owner who fails to timely give any notice as required by this section shall be in violation of this article and shall be subject to such penalties and enforcement remedies as provided in Section 6-98 herein below. However, failure to give timely notice in accordance with paragraph (b) of this section shall not be deemed a violation if the Department of Inspections has not complied with paragraph (a) of this section.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **SECTION 6-91. INSPECTION REQUIRED.**

- (a) The Responsible Party of each residential rental dwelling unit located in a rental inspection district shall arrange and permit an initial inspection and subsequent inspections of such residential dwelling unit as provided in this section and Section 6-92 by the Building Official or his or her designee. If the dwelling unit to be inspected is occupied at the time of a required inspection, it shall be the duty of the owner thereof to notify the occupants of such inspection and make the residential dwelling unit available for inspection. Unless a residential rental unit in a rental inspection district is exempted from inspection under this article, or receives a forty-eight (48) month certificate of compliance, the term of a certificate of compliance issued for any residential rental dwelling unit in a rental inspection district shall be for a term of twelve (12) months beginning with the first day of the month next following the month of issuance.
- (b) The initial inspection of each residential rental dwelling unit which is subject to inspection under this article shall take place no later than one hundred and eighty (180) days from the date that the owner thereof contacts the Department of Inspections to schedule such inspection. However, should the owner of a residential rental dwelling unit which is subject to inspection under this article, fail to give timely notice as required by Section 6-90, the Building Official, or his or her designee, shall inspect such unit within a reasonable time of becoming aware of such unit. Each residential rental unit for which a certificate of compliance or forty-eight (48) month certificate of compliance as described in Section 6-92 below has been issued shall be again inspected within 30 days from the expiration of the certificate or earlier revocation of a forty-eight (48) month certificate of compliance.

If the inspection reveals that a residential rental dwelling unit has violations, the Building Official, or his or her designee, shall indicate the existence of such violations on the Inspection Report together with the date by which such violations must be remedied, which date shall be determined by the Building

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Official, or his or her designee, and which date shall be reasonable. Failure to list any violation shall not be deemed a waiver of such violation. The required repairs must be verified by a follow-up inspection. If a follow-up inspection reveals that the owner has failed to remedy the noted violations by the specified date, the Building Official, or his or her designee, may proceed with any remedy provided for the enforcement of the Virginia Uniform Statewide Building Code.

As to violations which do not immediately affect the safe, decent and sanitary living conditions for persons living in such unit, and provided that all inspection fees shall have been remitted in advance, the Building Official, or his or her designee, may permit such time extensions as the Building Official, or his or her designee, shall deem reasonably necessary to allow for remediation of the violations. However, as to violations which are disqualifying violations and which pose an immediate threat to the safe, decent and sanitary living conditions for persons living in such unit, then the Building Official, or his or her designee, shall not issue an extension of time.

- (c) Reinspection shall be for the purpose of determining compliance by the owner with the list of specific violations on the Inspection Report furnished to the owner by the Building Official, or his or her designee. However, if upon reinspection, the Building Official, or his or her designee, discovers other violations that were not listed on the written list of specific violations previously furnished to the owner, the Building Official, or his or her designee, shall furnish the owner with a supplemental list of violations and shall provide the owner a reasonable opportunity to correct same.
- (d) If inspection of a residential rental dwelling unit reveals one or more disqualifying violations, the Building Official, or his or her designee, shall not issue a certificate of compliance until the disqualifying violations are satisfactorily remedied. If conditions warrant, however, the Building Official, or his or her designee, may require that the residential rental dwelling unit be vacated or remain unoccupied until brought into compliance, pursuant to his authority under Code of Virginia, (1950), as amended, Section 36-98, et seq., the Virginia Uniform Statewide Building Code. Upon compliance, the Building Official, or his or her designee, shall, as provided in Section 6-92 of this article, issue a twelve (12) month certificate of compliance.
- (e) No initial or periodic inspection pursuant to this article shall take place more than one time each year, calculated from the date of the initial or periodic inspection. The Department of Inspections has the authority under the Virginia Uniform Statewide Building Code to require the owner of the dwelling unit to submit to such follow-up inspections as deemed necessary to achieve compliance. However, nothing in this article shall modify the authority of the Building Official, or his or her designee, to conduct any other inspections, as allowed under the provisions of the Virginia Uniform Statewide Building Code, and inspections for obtaining a

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certificate of compliance under this article do not supplant or preclude any other inspection authorized under the Virginia Uniform Statewide Building Code.

- (f) Should the owner fail to timely contact the Department of Inspections within the required time in order to schedule any inspection required under this article, or should such owner fail to allow such inspection to proceed on the date for which it was scheduled, the owner shall be in violation of this article and shall be subject to such penalties and enforcement remedies as provided in Section 6-98 herein below.
- (g) Should a residential rental dwelling unit be sold, or the title thereto be otherwise transferred to another owner during the term of a certificate of compliance or forty-eight (48) month certificate of compliance issued for such unit, the term of such certificate shall end as of the last day of the month next following the month of transfer of ownership and the new owner shall contact the Department of Inspections and arrange for inspection of the unit; provided, however, that if the last inspection of the unit pursuant to this article occurred during the calendar year of transfer of ownership, the existing certificate shall not expire until the end of such calendar year.
- (h) Requests for an inspection may be made by telephone, provided the Building Official, or his or her designee, shall, in all cases, receive notice from the owner and payment of any applicable inspection fee(s) prior to conducting an inspection required under this article.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **SECTION 6-92. CERTIFICATES OF COMPLIANCE; APPLICATION; EXEMPTIONS.**

- (a) The following shall apply to all residential rental dwelling units located within inspection districts, which are not exempted under Subsection 6-92(b). However, a residential rental dwelling unit for which a current certificate of compliance has been issued prior to the effective date of this ordinance shall not be subject to further inspection under this article until such certificate of compliance expires; provided however, that during such period the pre-existing certificates of compliance shall be subject to revocation. Upon revocation or expiration of the certificate, such unit shall be subject to reinspection on the same basis as a certificate of compliance issued under this section. A temporary certificate of compliance issued prior to the effective date of this ordinance shall not qualify as a pre-existing certificate of compliance.
  - (1) Prior to expiration of the twelve (12) month certificate of compliance or forty-eight (48) month certificate of compliance, or upon revocation of a forty-eight (48) month certificate of compliance, the owner of the

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residential rental dwelling unit covered thereby shall contact the Department of Inspections and arrange for an inspection of such unit. Except in the case of an inspection following revocation of a forty-eight (48) month certificate of compliance, periodic inspections shall take place no later than thirty (30) days from the date of application for said inspection.

- (2) A residential rental dwelling unit which upon inspection under this article reveals no disqualifying violations, or with one or more violations that do not affect the safe, decent and sanitary living conditions for persons living in such unit, shall not be subject to further annual inspection under this article for forty-eight (48) months from date of such annual inspection, except as provided in Section 6-95, and a forty-eight (48) month certificate of compliance shall be issued for such unit.
- (b) The following shall be exempt from inspection:
- (1) No inspection shall be required within forty-eight (48) months of the issuance of a certificate of occupancy for newly constructed dwelling units. Thereafter said unit shall in all respects become subject to the requirements of this article.
  - (2) All hotels, motels, inns, bed and breakfast establishments, and other similar facilities to the extent occupied by transients shall be exempt from compliance with this article unless a dwelling unit is occupied in excess of thirty (30) days.
  - (3) No inspection shall be required within forty-eight (48) months of the issuance of a certificate of completion for a substantially remodeled dwelling unit. Substantially remodeled is defined as reconstruction, rehabilitation of a dwelling unit which the cost equals or exceeds fifty percent (50%) of the market value of the property. Thereafter said unit shall in all respects become subject to the requirements of this article.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **SECTION 6-93. MULTIPLE-FAMILY RENTAL DEVELOPMENT.**

- (a) If a multiple family rental development contains more than ten (10) residential rental dwelling units, in the initial and periodic inspections, the Building Official, or his or her designee, shall inspect no less than two (2) units and not more than ten percent (10%) of the residential rental dwelling units.



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- (b) Notwithstanding the number of residential rental dwelling units inspected, the Building Official, or his or her designee, shall charge the fee authorized by this article for inspection of no more than ten (10) dwelling units.
- (c) Notwithstanding subsection (b) above, if the Building Official, or his or her designee, determines upon inspection of the dwelling units that there are within one or more of such units violations of the Virginia Uniform Statewide Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multiple family rental development, the Building Official, or his or her designee, may inspect as many dwelling units as he or she deems reasonably necessary to assure compliance with the Virginia Uniform Statewide Building Code in which case, the fee shall be based upon a charge per dwelling unit inspected.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **DIVISION 3. INSPECTION FEES AND ENFORCEMENT; REVOCATION OF CERTIFICATE**

#### **SECTION 6-94. ISSUANCE OF CERTIFICATE; FEES.**

- (a) Except as provided in Section 6-93 above, there shall be inspection fees for each dwelling unit inspected as established by Section 6-131 of this code.
- (b) No inspection shall be performed, nor any certificate of compliance issued, unless all fees have been paid.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

#### **SECTION 6-95. REVOCATION OF CERTIFICATE OF COMPLIANCE; REINSTATEMENT.**

- (a) If a residential rental dwelling unit covered by a certificate of compliance is found in violation of the Virginia Uniform Statewide Building Code during the term of such certificate of compliance, the Building Official, or his or her designee, may revoke such certificate of compliance and such unit shall thereupon become subject to annual inspections and the issuance of a twelve (12) month certificate of compliance.
- (b) If a twelve (12) month certificate of compliance is issued after the inspection necessitated by the violation of the Virginia Uniform Statewide Building Code and revocation of the extended certificate of compliance, then said residential rental dwelling unit shall again be eligible for an extended certificate of compliance only after the annual certificate of compliance has expired and as of

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the first subsequent periodic inspection when no disqualifying violations are found.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **SECTION 6-96. RESERVED.**

### **SECTION 6-97. APPEALS; EFFECTS.**

- (a) Any person aggrieved by any determination or decision of the Building Official, or his or her designee, made pursuant to this article shall have the right to appeal such determination or decision in accordance with the provisions of the Virginia Uniform Statewide Building Code, and amendments thereto.
- (b) Nothing in this article shall be construed to limit, impair, alter or extend the rights and remedies of persons in their relationship of landlord and tenant as such rights and remedies exist under applicable law.
- (c) Nothing in this article shall be construed to relieve or exempt any person from otherwise complying with all applicable laws, ordinances, standards and regulations pertaining to the condition of buildings and other structures.
- (d) Nothing in this article shall be construed to limit the authority of the Building Official, or his or her designee, to perform inspections in accordance with applicable law.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **SECTION 6-98. VIOLATIONS OF CHAPTER; PENALTIES; RIGHT OF ENTRY.**

- (a) Any person willfully failing to comply with the inspection requirements of this article or the Virginia Uniform Statewide Building Code shall be subject to the penalties established in Sections 6-7 and 6-8 of this code.
- (b) Any person willfully failing to comply with the notice requirements of this article shall be subject to a Fifty Dollar (\$50.00) civil penalty to be assessed every thirty (30) days from the date notice is due for each property for which they fail to provide notice that they own a residential rental dwelling unit that is subject to this article.

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- (c) The remedies set forth in (a) and (b) of this section are not exclusive remedies for non-compliance with the requirements of this article and the Building Official, or his or her designee, shall take such further actions as allowed by all applicable law in order to obtain compliance with the requirements of this article, including, but not limited to, seeking injunctive relief under Section 15.2-1432 of the Code of Virginia (1950), as amended, and obtaining inspection warrants as provided in Section 36-1058(C)(3) of the Code of Virginia (1950) as amended. For the purposes of enforcing the provisions of this article, the Building Official, or his or her designee, shall have the right to conduct reasonable inspections of dwelling units and residential rental dwelling units located in the rental inspection district(s) at reasonable times subject to reasonable prior notice to the owner or occupant.

(Ord. No. 039-2003, 12-9-03; Ord. No. 017-2005, 5-10-05)

### **SECTION 6-99. SEVERABILITY.**

If any of the sections, paragraphs, sentences, clauses or phrases of this chapter shall be declared unconstitutional or invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of the chapter in its entirety or any of the remaining sections, paragraphs, sentences, clauses, and phrases.

(Ord. No. 039-2003, 12-9-03)

### **SECTION 6-100 - 6-130. RESERVED.**

## **DIVISION 4. FEES**

### **SECTION 6-131. RESIDENTIAL RENTAL INSPECTION DISTRICT – INSPECTION FEES.**

The following inspection fees shall be imposed for the inspection of each dwelling unit within the designated rental inspection district(s):

<u>INSPECTION</u>	<u>FEE PER DWELLING UNIT</u>
Initial/Periodic inspection (to include one follow-up)	\$35.00
Follow-up inspection	\$50.00

(Ord. No. 017-2005, 5-10-05)

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### ARTICLE VI. SPOT BLIGHT

#### SECTION 6-132. SPOT BLIGHT ABATEMENT

- (a) The City of Winchester, in accordance with Code of Virginia, 1950, as amended, Sections 36-49.1:1 *et seq.* may acquire or repair any blighted property, as defined in (b) below, by exercise of the powers of eminent domain provided in Title 25 of Code of Virginia, 1950, as amended, and further, shall have the power to hold, clear, repair, manage, or dispose of such property for purposes consistent with this section. In addition, the City may recover the cost of any repair or disposal of such property from the owner.
- (b) Blighted properties are those areas (including slum areas) with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals or welfare of the community.
- (c) The City Manager, or his designee, shall make a preliminary determination that a property is blighted in accordance with this section. The City Manager or his designee shall notify the owner, specifying the reasons why the property is considered blighted. The owner shall have thirty (30) days within which to respond with a plan to cure the blight within a reasonable time.
- (d) If the owner fails to respond within the thirty (30) day period with a plan that is acceptable to the City Manager or his designee, the City may (i) request the Planning Commission to conduct a public hearing and make findings and recommendations that shall be reported to City Council concerning the repair or other disposition of the property in question; and (ii) in the event a public hearing is scheduled, shall prepare a plan for the repair or other disposition of the property.
- (e) Not less than three (3) weeks prior to the date of the public hearing before the Planning Commission, the Commission shall provide by regular and certified mail, notice of such hearing to (i) the owner of the blighted property or the agent designated by him for receipt of service of notices concerning the payment of real estate taxes within the locality; (ii) the abutting property owners in each direction, including those property owners immediately across the street or road from the property; and (iii) the representative neighborhood association, if any, for the immediate area. The notice shall include the plan for the intended repair or other

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disposition of the property. The notice of the public hearing shall be published at least twice, with not less than six (6) days elapsing between the first and second publication in a newspaper published or having general circulation in the locality in which the property is located. The notice also shall be posted on the property. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than six (6) days nor more than twenty-one (21) days after the second publication.

- (f) The Planning Commission, at this public hearing, shall determine whether:
  - (1) The owner has failed to cure the blight or present a reasonable plan to do so;
  - (2) The property is blighted;
  - (3) The plan for the repair or other disposition of the property is in accordance with the City's comprehensive plan, and the comprehensive zoning ordinances; and
  - (4) The property is located within an area listed on the National Register of Historic Places. In such instances, the Planning Commission shall consult with the Architectural Review Board, regarding the proposed repair or other disposition of the property by the City Council.
- (g) The Planning Commission shall report its findings and recommendations concerning the property to the City Council. City Council, upon receipt of such findings and recommendations, may after an advertised public hearing, affirm, modify, or reject the Planning Commission's findings and recommendations. If the repair or other disposition of the property is approved, the City Manager or his designee may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this section, and applicable law. The City shall have a lien on all property so repaired or acquired under an approved plan to recover the cost of (i) improvements made by the City to bring the blighted property into compliance with applicable building codes and (ii) disposal, if any. The lien authorized by this section shall be filed in the Circuit Court of the City of Winchester and shall be subordinate to any prior liens of record. City Council may recover its costs of repair from the owner of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner. If the property is acquired by the City through eminent domain, the cost of repair may be recovered when City Council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.
- (h) If the blighted property is occupied for personal residential purposes, City Council, in approving the plan, shall not allow for the acquisition of such property

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if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisition, under an approved plan, by the City of property which has been condemned for human habitation for more than one year. In addition, if the City is exercising the powers of eminent domain in accordance with Title 25 of Code of Virginia, it may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such persons.

- (i) In lieu of the acquisition of blighted property by the exercise of the powers of eminent domain as herein provided and in lieu of the exercise of other powers granted in subsections (a) through (g), City Council by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to Code of Virginia, 1950, as amended, Section 15.2-900 or 15.2-1115. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners of the property at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.
- (j) The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

(Ord. No. 029-2005, 9-13-05)

**State Law Reference**—Code of Virginia, §36-49.1:1.

**SECTION 6-133 - 6-140. RESERVED.**

## **ARTICLE VII. AMUSEMENT DEVICE REGULATIONS**

### **SECTION 6-141. ADOPTED; AVAILABILITY OF COPIES.**

Copies of the Virginia Amusement Device Regulations, current edition and amendments are on file in the office of the Building Official, Rouss City Hall, where they are available for public examination on Monday through Friday from 8:00 a.m. to 5:00 p.m., holidays excepted. (Ord. No. 011-89, 5-240, 3-11-89; Ord. No. 004-90, 5-181, 2-13-90; Ord. No. 023-92, 5-181, 12-8-92; Ord. No. 029-2005, 9-13-05)

## **BUILDING REGULATIONS**

### **SECTION 6-142. APPLICATION; PERMIT FEES.**

Applications for a permit shall be made for constructing and operating an amusement device permanently fixed to a site or reassembling and operating any portable amusement device. Each application shall be accompanied with a fee as prescribed in Section 6-27 of this Code.

Definitions of the three ride classifications shall be those set out in the Code of Virginia.  
(Ord. No. 040-95, 9-12-95)

### **SECTIONS 6-143 - 6-175. RESERVED.**

(Ord. No. 023-92, 12-8-92)